

CIVIL DOCKET
UNITED STATES DISTRICT COURT

BOHANON

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71-C-401

Jury demand date: 10-27-71 by Pltf.
11-17-71 by Deft.

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS					
HENRY SMITH, Plaintiff vs THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, a corporation, and STILLWATER MILLING COMPANY, an Oklahoma Corporation, Defendants		<p>For plaintiff:</p> <p>William C. Lane, Ernest Hubbell, Robert D. Schaff 2505 Power & Light Bldg. 106 W. 14th Street Kansas City, Missouri 64105 (221-5666)</p> <p>Larry G. Cassil <i>out</i> 1622 United Founders Tower Oklahoma City, Okla 73112 (838-5575)</p> <p>Robert E. Martin (for Henry Smith) Smith, Brown, Martin & Adkisson 410 Beacon Bldg. Tulsa, Oklahoma 74103 (587-7234)</p> <p>For defendant:</p> <p>Joseph M. Best <i>582-8877</i> BEST, SHARP, THOMAS & GLASS Franklin Bldg., (Stillwater Milling) Tulsa, Oklahoma</p> <p>Donald L. Cooper, Gordon F. Rainey RAINEY, XXXXX WELCH, Wallace, Ross & 735 FNB, Okla. City, Okla (AT&SF) Coope <i>735 FNB</i> <i>1310</i></p>					
STATISTICAL RECORD	COSTS			DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed <i>12-1-71</i>	Clerk						
J.S. 6 mailed <i>6-1-73</i>	Marshal						
Basis of Action: Personal Injury	Docket fee						
	Witness fees						
Action arose at:	Depositions						

DATE	PROCEEDINGS	Date Order or Judgment Noted
11-22-71	Order sustaining Motion for Change of Venue and Transferring Case from the U. S. District Court for the Eastern District of Oklahoma. filed. r	
11-22-81	Complaint filed. r	
11-22-71	Prae for & issued summons. r	
11-22-71	Return of summons on Stillwater Milling Co., filed. r	
11-22-71	Return of summons on Atchison, Topeka & Santa Fe Railway, filed. r	
11-22-71	Separate Answer of Stillwater Milling Co., filed. r	
11-22-71	Motion for Change of Venue by Deft., filed. r	
11-22-71	Answer of the Deft., the Atchison, Topeka and Sante Fe Railway Co., filed. r	
12-1-71	Case set for Pre-Trial on Dec. 15, 1971, at 1 P.M. (LB-J)v	
12-8-71	Case stricken from PT assignment of 12-15-71, to be reset on next pre-trial docket. (LB-J)m	
12-13-71	Entry of Appearance of Robert E. Martin, filed. r	
12-27-71	Application of Larry G. Cassil of Cassil, Jackson & Hall to withdraw as attorney of record, filed. hm	
12-30-71	Order that the firm of Cassil, Jackson & Hall is allowed to withdraw as attorneys for pltf, filed. (LB-J)m (copies mailed)	
1-4-72	Case set for pre-trial hearing 1/12/72 at 1:30 p.m. (LB-J) rm	
1-5-72	Plaintiff, Henry M. Smith's Interrogatories to Deft., the Atchison, Topeka & Santa Fe Railway Company, a Corp, filed. v	
1-5-72	Plaintiff, Henry M. Smith's Interrogatories to Deft., Stillwater Milling Company, filed. v	
1-10-72	Case stricken from pre-trial assignment of 1-12-72. (LB-J)hm	
2-2-72	Stipulation and approval of stipulation granting deft. until 3-6-72 to answer interrogatories, filed. (LB-J)hm (copies mailed)	
2-7-72	Interrogatories of the defendant Atchison, Topeka and Santa Fe. RR Co to plaintiff, filed. ds	
2-8-72	Objections of deft. The Atchison, Topeka & Santa Fe Railway Co. to interrog. served by pltf. & motion for protective order, filed. hm	
2-8-72	Brief in support of objections of deft. AT&SF to interrog. served by pltf. & motion for protective order, filed. hm	
2-10-72	Stipulation and approval by Ct. that deft. is granted until 3-6-72 to ans. interrog., filed. (LB-J)hm (copies mailed)(Stillwater Milling)	
2-18-72	Application for extension of time within which to answer interroga-tories, with order granting deft. AT&SF Railway Co. until 4-5-72 to answer interrogatories. (LB-J)hm	
3-3-72	Stipulation re answers to interrogatories, filed. hm <i>order sent to judge</i>	
3-7-72	Order approving stipulation between parties. (LB-J) rm (letter mailed to counsel, forwarding copies, and stating that objections and mo/for protective order pertaining to interrog. are now moot)	
3-14-72	Answers of deft. Stillwater Milling Co. to interrogatories, filed. hm	
3-30-72	Pltf's answers to interrogatories of the deft. AT&SF Railway Co., filed. hm	
4-4-72	Case set for pre-trial 4-20-72 at 9:30 a.m. (LB-J)hm	
4-5-72	Answers to deft. ^{1108F} interrogatories, filed. g	
4-6-72	Notice of taking depositions by Deft., Atchison, Topeka & Santa Fe RR, of Leo Lowbeer, M.D. in Tulsa, Okla., on 4-12-72, filed. v	

continued.

D. C. 110A Rev. Civil Docket Continuation

6

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-7-72	U.S. Marshals Service, Return on Subpoena, filed. Served Leo Lowbeer in Tulsa, Okla. on 4-6-72 with fees of \$2.48. v	
4-10-72	Motion pf deft. Stillwater Milling Co. to quash notice to take deposition and subpoena, filed. hm	
4-10-72	Brief in support of motion to quash notice to take depositions and subpoena, filed. hm	
4-11-72	Entry of appearance of Gordon F. Rainey for deft. AT&SF RW Co., filed. hm	
4-12-72	Order, filed, that motion to quash notice to take deposition of Leo Lowbeer, M.D. is denied & that deft. AT&SF RW Co. proceed to take said deposition at time stated. (LB-J)hm (copies mailed)	
4-18-72	Application of def. Stillwater Milling to assess costs, filed. rm	
4-18-72	Brief in support of appli. of def. to assess costs, filed. rm	
4-20-72	Deposition of Leo Lowbeer, M.D., on behalf of the Deft., The Atchison, Topeka and Santa Fe Railway Co., taken before Thos. G. Bloxom, on 4-12-72, with fees of \$88.00, filed. v	
4-20-72	Pre-trial hearing held. Pltf. makes oral request of Stillwater Milling for certain documents. Court directs Mr. Thomas to confer with Mr. Best & comply if possible. Pltf. to prepare PT order within 45 days and if not in by then, case will be set for further pre-trial. (LB-J)hm	
4-25-72	Notice of filing deposition, filed. hm	
4-27-72	Response of the Atchison, Topeka and Santa Fe Railway Co. to Stillwater Milling Co's application to assess costs, filed. hm	
4-27-72	Brief in support of response of the AT&SF Ry. Co. to Stillwater Milling Co's application to assess costs, filed. hm	
5-3-72	Deposition of Henry M. Smith on behalf of deft AT&SF, filed. (\$55)g	
5-3-72	Depositions of Billy G. Allen and Robt. E. Williamson on behalf of pltf., filed. (\$56)g	
6-5-72	Motion for extension of time to complete and file proposed pre-trial order, filed. hm	
6-5-72	Order, filed, granting parties until 7-3-72 to file proposed pre-trial order. (LB-J)hm (copies mailed)	
7-6-72	Pre-trial order, filed. (LB-J)hm	
7-6-72	Case called for hearing on deft. Stillwater Milling's application to assess costs. Application denied and case to be set on next jury docket. (LB-J)hm	
7-26-72	Notice of taking depositions of Bernard Abrams, M.D., filed. hm	
7-26-72	Notice of taking depositions of Alexander Lichtor, M.D., filed. hm	
8-4-72	Motion of the Deft. Stillwater Milling Co., to reconsider application to assess costs, filed. v <i>owing to judge</i>	
8-4-72	Brief in support of motion to reconsider, filed. v <i>owing to judge</i>	
8-10-72	Response of defendant, Atchison, Topeka and Santa Fe RR Co. to Defendant, Stillwater Milling Company's motion to reconsider application to assess costs, filed. ds	
8-10-72	Brief in support of response to motion to reconsider application to assess costs, filed. ds	
8-11-72	Req. of def. AT&SF to def. Stillwater Milling for production of document, inspection and copying, filed. rm	

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
8-29-72	Motion to determine whether deft. AT&SF Railway Co. should be assessed costs of witness on deposition and, if so, to determine reasonableness and amount, filed. hm	
8-30-72	Supplemental interrogatories directed to plaintiff by deft. AT&SF, filed. g	
8-30-72	Hearing held on motion of Stillwater Milling Co. to reconsider application to assess costs and motion to determine whether AT&SF should be assessed cost of witness on deposition & if so, to determine reasonableness & amt. Court orders that question of apportionment of costs will be determined at a later date. Court sets aside minute order of 7-6-72 & withholds determination of costs. Order to be prepared. Court orders that fee of Dr. Lowbeer is set at \$125.00 & Court will hear Dr. Lowbeer as to what is proper fee at conclusion of trial; also orders that complaint of Dr. Lowbeer against Mr. Cooper be vacated until Court rules on question of costs. Mr. Cooper to prepare order. (LB-J)hm	
9-8-72	Notice of filing deposition of Henry Smith, filed. v	
9-20-72	Deposition of Bernard Abrams, M.D. on behalf of pltf., filed (\$100.00)g	
9-20-72	Deposition of Alexander Lichtor, M.D. on behalf of pltf., filed. (\$131.50)g	
9-21-72	Order, filed, that motion to reconsider application to assess costs of deft. Stillwater Milling Co. is sustained, that order dated 7-6-72 denying application to assess costs is hereby vacated & said application to assess costs is held in abeyance until after trial of case; further ordered that deft. AT&SF Railway Co. pay the sum of \$125.00 to Dr. Leo Lowbeer & that further hearing on Dr. Lowbeer's fee for giving his deposition be held in abeyance until after trial. (LB-J)hm (copies mailed)	
9-26-72	Motion for order compelling discovery of deft. AT&SF Railway Co., filed. hm	
9-27-72	Brief in support of motion for order compelling discovery, filed. hm	
9-29-72	Pltf's answers to supplemental interrogatories of the deft. AT&SF Railway Co., filed. hm	
10-16-72	Case called for hearing on motion for order compelling discovery of deft. AT&SF. Statements made. Motion sustained & deft. Stillwater Milling to provide documents within 10 days. (LB-J)hm	
11-2-72	Order, filed, that motion of deft. AT&SF for an order compelling deft. Stillwater Milling to produce is sustained & that deft. Stillwater to furnish copy of report of autopsy to AT&SF before 10-26-72. (LB-J)hm (copies mailed)	
11-13-72	Case set for hearing on question of fees of Dr. Lowbeer 12-14-72 at 9:30 a.m. (LB-J)hm	
12-6-72	Case set for jury trial 1-16-73 at 9:30 a.m. (LB-J)hm	
12-14-72	Case called for hearing on question of fees of Dr. Lowbeer. Statements	(Cont)

DATE	PROCEEDINGS	Date Order or Judgment Noted
	made. Court orders that fees of Dr. Lowbeer will stay at \$125.00, as previously determined by the Court. (LB-J)hm	
12-26-72	Amendment to answers to interrogatories by deft. The AT&SF Railway Co., filed. hm	
1-10-73	Case stricken from jury trial setting of 1-16-73, to be reset on next jury docket. (LB-J)hm	
1-10-73	Return on service of subpoena, filed. Served Quemby Robison at Tulsa, Oklahoma on 1-9-73. (\$5.84. Served Mrs. Charles E. Dobbins at Tulsa, Oklahoma on 1-9-73. \$2.00. Served Mrs. Quemby Robison at Tulsa, Oklahoma on 1-9-73. \$2.00. ds	
1-12-73	Plaintiff's trial memorandum, filed. hm	
3-8-73	Case set for jury trial Tuesday 4-24-73 at 9:30 a.m. (LB-J)hm	
4-20-73	Subpoenae, ret. & filed: served Mrs. Quimby Robison & Mr. Quimby Robison, Claremore, 4-16-73; Mrs. Charles E. Dobbins, 4-18-73; Mark Mylar and Lauren Eugene Johnson, 4-19-73. (USM \$28.48)g	
4-23-73	Copy of Letter dated 4-17-73 from Joe Best to Honorable Marian Opala, filed. r	
4-24-73	Pltf's Exh. lists, filed. r	
4-24-73	Pltf's Witness lists, filed. r	
4-26-73	Pltf's Requests for instructions to Jury, filed. r	
4-26-73	Deft. Stillwater Milling Co's Request for Instructions to Jury, filed. r	
4-24-73	Return of Civil Subpoena of Howard Dale Muldoon and Harry E. Livingston, M. D., both served on 4-23-73 at Tulsa, Oklahoma filed. r	
4-26-73	Jury Trial held on 4-24; 4-25; and 4-26-73. Pltf rep by Wm. Lane, John Peak & Robert E. Martin; Deft AT&SF rep by Donald Cooper & Wm. Ross; Deft. Stillwater Milling Co. rep by Joseph Best. Stipulation signed and filed in Open Court. Pltf's Motion for Directed Verdict, filed in Open Court and was overruled by the Court. Defts' Motion for Dismissal was denied. Jury retires to deliberate at 4:45 P.M. on April 25, 1973 and excused until 9:30 A.M. Thursday, 4-26-73. Jury returns w/Verdict at 11:50 A.M. on Thursday, 4-26-73. Verdict received, read and filed in Open Court. Jury finds in favor of Pltf and against Deft. Stillwater Milling Co. & fix damages in the amount of \$5,000.; Jury finds in favor of deft. A.T.&S.F. Railway and against the Pltf. (LB-J)r.	
4-26-73	Pltf's Exhbs. #4 thru #16, 18, 20, 23, 23A, and #30 thru #32, in filed. r	
4-26-73	Deft. Stillwater Milling's Exhbs #1 in file. #2 & #3, were not admitted. r	
4-26-83	Deft. A.T. & S.F. Railway's Exhs. #1 thru #11, in filed. r	
5-4-73	Journal Entry of Judgment, filed & entered. Pltf to recover \$5,000. from Deft. Stillwater Milling Co., together w/costs of action; Court finds in favor of Deft. AT&SF and against Pltf. Filed & Entered. (LB-J)r (Copies mailed)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
5-14-73	Plaintiff's motion for a new trial as to Defendant Stillwater Milling Company on the issue of damages only, filed. ds	
5-14-73	Brief of plaintiff in support of motion for new trial, filed. ds	
7-19-73	Case called for hearing on pltf's motion for a new trial as to deft. Stillwater Milling Co. on the issue of damages only. Motion overruled. (LB-J)hm	
7-24-73	Order overruling motion for new trial, filed and entered. (LB-J)hm (copies mailed)	
8-14-73	Release and satisfaction of judgment, filed. hm	